HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.16913 of 2006

Date : 11-8-2006

Between:

Smt.V.Lakshmi Kusuma Kumari,
W/o.late V.Ramalingeshwara Rao,
Aged about 62 years,
R/o.H.NO.8-3-988/25, SBH colony,
Srinagar colony, Hyderabad,
Represented by G.P.A. Holder
P.Babu Rao s/o.P.L.Perumalla,
Aged about 33 years,
R/o.Madhura Nagar, Hyderabad. ..
Petitioner

And

1. The Municipal Corporation of
   Hyderabad, rep. by its
   Commissioner, Tank Bund Road,
   Hyderabad.
2. The Assistant City Planner,
   Town Planning Section,
   Circle-V, Khairtabad,
   Hyderabad. ..
Respondents

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ORDER:

The Writ Petition is filed for a writ of mandamus declaring the notice issued in letter No.0427/TPS/C5/MCH/2006, dated 5-8-2006 of the 2nd respondent and the action of the respondents in taking steps for demolition of the building constructed in premises bearing No.8-3-988/25, 8-3-988/26 and 8-3-988/27 constructed on plot Nos.25, 26 and 27 admeasuring 955 sq. mts. Situate at S.B.H. colony, Yellareddyguda, Hyderabad as illegal, irregular, arbitrary, unreasonable, unconstitutional, unjustified and unsustainable and to set aside the notice and direct the respondents to forbear from demolishing any portion of the above said building and to pass such other suitable orders.

It is stated that the late husband of the petitioner Sri V.Ramalingeswara Rao is the absolute owner and possessor of property bearing MCH Nos.8-3-988/27 on plot No.27, admeasuring 375 sq. yards or 314 sq. mts. Having purchased the same under registered sale deed dated 11-2-1985. After his death the petitioner and her three children

had succeeded to the property. Similarly, one Sri Seetha Ramachandrulu was the absolute owner and possessor of property bearing MCH Nos.8-3-988/25 and 8-3-988/25A on plot No.25, admeasuring 395 sq. yards or 330.22 sq. mts. Situate at S.B.H. colony, Yellareddyguda, Hyderabad having purchased the same through a registered sale deed Document No.373/1985, dated 7-2-1985. It is also stated that another Sri S.Rameswar was the absolute owner and possessor of plot No.26 admeasuring 373 sq. yards having purchased the same under registered sale deed dated 7-2-1985 and after his death his children had inherited the same. All these three plots were clubbed together by all of them for common development. and they entered into development agreement with one M/s. Sai Krishna Constructions on 26-11-2003. It is further stated that by joining the three plots an application was submitted to the respondents for granting construction permission and sanctioned plan for construction of a residential building with stilt for parking plus five upper floors. After going through the prescribed procedure the respondents through permit No.78/34 in File No.0427/CSC/TP5/2004, dated 16-8-2004 granted the sanction and approved plan. Several other factual details also had been narrated. It is further stated that on 27-10-2004 the staff of the respondents along with some labour came to the building and threatened to demolish some portions. On 29-10-2004 a legal notice was

got issued to the respondents not to take any such steps and as there was no response O.S.No.792/2005 on the file of the IV Junior Civil Judge, City Civil Court, Hyderabad was filed against the 1st respondent for permanent injunction and I.A.No.118/2005 also was filed for grant of temporary injunction. The learned Judge by an order dated 11-02-2005 granted temporary injunction against the 1st respondent and the same is continuing as on today.

While the things stand thus the 2nd respondent issued a notice under Section 636 of Hyderabad Municipal Corporation Act in letter No.0427/TPS/C5/MCH/2006 dated 5-8-2006 directing the petitioner to remove the alleged unauthorized structure within three days from the date of receipt of notice and otherwise threatened that the Corporation will demolish the same. Several other factual details also had been narrated. Hence the Writ Petition.

In view of the facts and circumstances, this Court is of the considered opinion that the Writ Petition be disposed of with the following direction:

The petitioner to treat the impugned notice as show cause notice and file objections within a period of two weeks and the respondents to consider the objections and pass appropriate orders. It is needless to say that till a decision is taken no further steps relating to demolition to be taken in relation to the subject matter of the Writ Petition. No costs.

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Justice P.S. Narayana

Date : 11-8-2006

AM